

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 900

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO WATER; AMENDING SECTIONS OF THE NMSA 1978 RELATING TO IMPOUNDING PERENNIAL SURFACE WATERS OF THE STATE FOR WATERING LIVESTOCK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-5-32 NMSA 1978 (being Laws 1941, Chapter 126, Section 25, as amended) is amended to read:

"72-5-32. CONSTRUCTION OF DAMS [~~EXCEEDING TEN FEET IN HEIGHT~~]. -- Any person, association or corporation, public or private, the state or the United States hereafter intending to construct a dam shall meet the requirements of filing applications for appropriations and use of water pursuant to Section 72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA 1978. Any person, association or corporation, public or private, the state or the United States intending to construct a dam that

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~[exceeds ten feet in height from the lowest natural ground~~
2 ~~surface elevation to the crest of the dam or]~~ impounds more
3 than ten acre-feet of water shall submit on a form prescribed
4 by the state engineer detailed plans to the state engineer for
5 approval before construction. If the state engineer finds that
6 the dam design is safe, ~~[he]~~ the state engineer shall approve
7 the plans; provided that this section shall not apply to
8 erosion control structures whose maximum storage capacity does
9 not exceed ten acre-feet and are constructed for the sole
10 purpose of sediment control. An erosion control structure
11 shall not impound surface water in any amount for fishing, fish
12 propagation, recreation or aesthetic purposes, which shall
13 require a permit pursuant to Section 72-5-1 NMSA 1978. "

14 Section 2. Section 72-9-3 NMSA 1978 (being Laws 1907,
15 Chapter 49, Section 74, as amended) is amended to read:

16 "72-9-3. STOCK WATER. --

17 A. Any stockmen or stock owners desiring to impound
18 any of the perennial surface waters of the state for watering
19 of livestock shall apply to the state engineer on a form
20 prescribed by the state engineer. If the capacity of the
21 proposed impoundment is ten acre-feet or less, the applicant
22 shall meet the requirements of this section. If the capacity
23 of the proposed impoundment exceeds ten acre-feet, the
24 applicant shall meet the requirements of filing applications
25 for the appropriation and use of water pursuant to Section

. 155997. 1

underscored material = new
[bracketed material] = delete

1 72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA 1978.

2 B. Upon the filing of an application pursuant to
3 this section, if the state engineer finds that the capacity of
4 the proposed impoundment is ten acre-feet or less, will not be
5 on a perennial stream and will be used for watering of
6 livestock as defined in Subsection D of this section, the state
7 engineer shall issue a permit to the applicant to impound and
8 use the waters applied for; provided that as part of an
9 application for an impoundment on state or federal land, the
10 applicant submits proof that the applicant is legally entitled
11 to place livestock on the state or federal land where the water
12 is to be impounded and has been granted access to the site and
13 has permission to occupy the portion of the state or federal
14 land as is necessary for the impoundment.

15 C. This section shall only apply to impoundments
16 constructed for the watering of livestock after the effective
17 date of this 2004 act.

18 D. As used in this section, "livestock" means
19 "livestock" as defined in Section 77-2-1.1 NMSA 1978 and this
20 section applies only to the impoundment of surface water for
21 the purpose of watering livestock. Watering of livestock does
22 not include an impoundment of surface or ground water in any
23 amount for fishing, fish propagation, recreation or aesthetic
24 purposes, which shall require a permit pursuant to Section
25 72-5-1 NMSA 1978. ~~[In determining whether an impoundment will~~

. 155997. 1

underscored material = new
[bracketed material] = delete

1 ~~be used for the watering of livestock, the state engineer may~~
2 ~~consider the maximum amount of water required per livestock~~
3 ~~unit and shall take into account regional and climatic~~
4 ~~conditions that affect consumption.] "~~

5 - 4 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25